

Amendment to the Claims

1. **(Currently Amended)** A method ~~of for use in~~ wireless communication comprising:

~~transmitting at least one data burst using an assigned~~ assigning one of at least two radio configurations, the radio configuration being assigned ~~in response to~~ as a function of a higher data transmission rate determined by calculating the data transmission rate for ~~the~~ at least one data burst based on a power level and Walsh code for each of the at least two radio configurations;

transmitting the at least one data burst using said assigned radio configuration.

2. **(Currently Amended)** The method of Claim 1, wherein ~~the step of~~ calculating the data transmission rate comprises:

evaluating the power level for each radio configuration; and
evaluating the availability of Walsh codes for each radio configuration.

3. **(Original)** The method of Claim 2, wherein the step of evaluating the power level for each radio configuration comprises:

evaluating the power level without the at least one data burst; and
evaluating the power level for the at least one data burst.

4. **(Original)** The method of Claim 3, wherein the evaluated power level for the at least one data burst comprises:

evaluating the power level at an onset of the at least one data burst.

5. **(Original)** The method of Claim 4, comprising

if the calculated data transmission rate is about equal for each radio configuration, comparing a channel power with a threshold.

6. **(Currently Amended)** The method of Claim 5, comprising:
 - if the channel power is at or below the threshold, assigning the one of the radio configurations with a higher of maximum number of traffic Walsh codes of said at least two radio configurations; and
 - if the channel power is above the threshold, computing a power utilization and Walsh code utilization for each radio configuration.
7. **(Original)** The method of Claim 6, wherein the step of computing a power utilization for each radio configuration comprises:
 - for each radio configuration, dividing the power in use during the at least one data burst by a maximum traffic transmission power.
8. **(Original)** The method of Claim 6, wherein the step of computing a Walsh code utilization for each radio configuration comprises:
 - for each radio configuration, dividing the Walsh codes in use during the at least one data burst by a maximum number of traffic Walsh codes.
9. **(Currently Amended)** The method of Claim 8, wherein the step of dividing the Walsh codes in use comprises:
 - considering Walsh code blocking between codes of different length in response to available Walsh code orthogonality ~~rules~~.
10. **(Original)** The method of Claim 6, comprising:
 - assigning the radio configuration supporting having a ratio of power utilization to Walsh utilization closest to at least one of unity and a tunable value about unity.

11. **(Currently Amended)** The method of Claim 6, wherein the at least two radio configurations comprises at least one of Radio Configuration 3 (RC3) and Radio Configuration 4 (RC4).

12. (Withdrawn)
13. (Withdrawn)
14. (Withdrawn)
15. (Withdrawn)
16. (Withdrawn)
17. (Withdrawn)
18. (Withdrawn)
19. (Withdrawn)
20. (Withdrawn)
21. (Withdrawn)
22. (Withdrawn)